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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,176	03/05/2008	Michael D. McMahon	7257-0052/PB0010031.08	8237

96139 7590 11/17/2011  
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EXAMINER

PATEL, NATASHA

ART UNIT

PAPER NUMBER

3766

NOTIFICATION DATE

DELIVERY MODE

11/17/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/583,176

**Applicant(s)**

MCMAHON ET AL.

**Examiner**

NATASHA PATEL

**Art Unit**

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 August 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (F-TO-942)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The amendment filed on 8/22/11 has been received and considered. By this amendment, no claims have been amended or added. Claims 7-19 are cancelled. Claims 1-6 are pending in the application.

#### ***Response to Arguments***

1. Applicant's arguments filed 8/22/11 have been fully considered but they are not persuasive. Applicant discloses that neither Covey nor Edwards teaches the wireless transmission of patient data. Examiner agrees with this, but believes the combination of Covey and Edwards does teach this limitation. Covey teaches the hardwire transmission of patient data. Edwards teaches the hardwire and wireless transmission of electrode data. The examiner considers it would have been obvious to one of ordinary skill in the art at the time of the invention to transmit Covey's patient data both wirelessly and through a hardwire connection because Edwards teaches that using both modes of data transmission provides a backup in case the hard wired component is disconnected (see par. 72).

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Covey et al. (PG Pub. 2004/0162586) in view of Edwards (PG Pub. 2004/0049233).

Regarding Claim 1, Covey discloses a patient parameter monitoring pod, comprising:

- a portable housing (see housing 12) containing a power supply (see par. 26);
- a patient parameter module (see electrodes 30) connectable to a patient via lead cables (see leads 32) to collect patient data, the patient data including at least one vital sign (see heart rhythms; par. 28);
- a transceiver adapted to wirelessly transmit electrode data to a defibrillator (see par. 42 and 43, figure 2); and
- a data port (see data port 26) adapted to supply the patient data via a direct electrical connection to the defibrillator (see par. 23). Covey does not disclose that the transceiver transmits patient data. However, Edwards discloses a similar portable AED where the status of the electrodes can be communicated wirelessly or through a direct electrical connection or both (see par. 62). It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize multiple options for communication of patient data as well since Edwards teaches that having both components allows for continued communication despite disconnection of the hard wired component (see par. 72). When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show it was obvious under 35 USC 103 (KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1742, 82, USPQ2d 1385, 1396 (2007)). In this case, the simple substitution of one

known element (patient data) for another (electrode data) would have led to the predictable result of patient data transmission that provides a back-up transmission in case one of the modes fails.

4. Regarding Claim 2, Covey discloses multi-lead ECG data (see par. 24).
5. Regarding Claim 3, Covey discloses the portable housing supports a display area (see displays 20; par. 22) to visually display the patient data.
6. Regarding Claim 4, Covey discloses that the components can be coupled to one another directly or through a network. When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show it was obvious under 35 USC 103 (KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1742, 82 USPQ2d 1385, 1396 (2007)). Although, Covey does not go into details about specific interconnection mechanisms, it would have been obvious to use some type of interconnect connector to connect the pod to another patient monitoring pod (see Figure 2 and par. 68).
7. Regarding Claim 5, Covey discloses housing includes visual indicators (see par. 22).
8. Regarding Claim 6, Covey discloses including a carrying handle (see handle 14) extending from the housing proximate a patient lead cable port that permits connection of the lead cables to the pod, the carrying handle positioned to protect the patient lead

cable port and the patient lead cables attached to the port from direct impact (see Figure 1). The examiner considers the port and cables are protected at least from one side.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATASHA PATEL whose telephone number is (571)272-5818. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on 571-272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Natasha N Patel/  
Examiner, Art Unit 3766

/CARL H LAYNO/  
Supervisory Patent Examiner, Art  
Unit 3766